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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,064	08/18/2003	Thomas E. Berkebile	19350-094859	8270

7590 11/03/2004

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EXAMINER


PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/643,064	<b>Applicant(s)</b> BERKEBILE ET AL. 	
	<b>Examiner</b> Hau V Phan	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/18/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 8/18/2003 has been considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, the phrase "wherein speed of said movement is regulated to move at a desired rate of movement" is not clear, which structure effect the movement of the step.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Guidry (4,982,974).**

Guidry in figures 1-4, discloses a running board assembly for a motor vehicle. The running board assembly comprising a step (142), a mounting assembly (as shown in figure 4) extending between the step and the motor vehicle for mounting the running board assembly on the vehicle enabling movement of the step between a retracted position and an extended position. Guidry also discloses a pneumatic cylinder (as shown in figure 3) operatively engaging the mounting assembly, whereby energizing the pneumatic cylinder effects the movement.

Regarding claim 2, Guidry discloses a tank (188) for storing a supply of pressurized fluid to be used by the pneumatic cylinder when the pneumatic cylinder is energized.

Regarding claim 3, Guidry discloses a spring (176) extending between the step and the motor vehicle urging the step to the retracted position.

Regarding claim 4, Guidry discloses a valve (186) for fluidly communicating fluid into and out of the pneumatic cylinder.

Regarding claim 5, Guidry discloses a solenoid valve for opening the tank allowing the tank to receive compressed fluids.

Regarding claim 5, Guidry discloses a compressor fluidly connected to the tank.

**6. Claims 1-2 and 4-8 are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Rivinius (3,986,724).**

Rivinius in figures 1-2, discloses a running board assembly for a motor vehicle. The running board assembly comprising a step (27), a mounting assembly (as shown in figure 2) extending between the step and the motor vehicle for mounting the running board assembly on the vehicle enabling movement of the step between a retracted position and an extended position. Rivinius also discloses a pneumatic cylinder (31) operatively engaging the mounting assembly, whereby energizing the pneumatic cylinder effects the movement.

Regarding claim 2, Rivinius discloses a tank (37) for storing a supply of pressurized fluid to be used by the pneumatic cylinder when the pneumatic cylinder is energized.

Regarding claim 4, Rivinius discloses a valve (as shown in figure 1) for fluidly communicating fluid into and out of the pneumatic cylinder.

Regarding claim 5, Rivinius discloses a solenoid valve for opening the tank allowing the tank to receive compressed fluids.

Regarding claim 6, Rivinius discloses a controller (as shown in figure 1) for operating the valve and the solenoid valve.

Regarding claim 7, Rivinius discloses a valved port selectively providing access to pressurized air inside the tank.

Regarding claim 8, Guidry discloses a compressor fluidly connected to the tank.

**7. Claims 1-2 and 4-8 are alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Everett (4,356,894).**

Everett in figures 1-2, discloses a running board assembly for a motor vehicle. The running board assembly comprising a step (42), a mounting assembly (as shown in figure 2) extending between the step and the motor vehicle for mounting the running board assembly on the vehicle enabling movement of the step between a retracted position and an extended position. Everett also discloses a pneumatic cylinder (48) operatively engaging the mounting assembly, whereby energizing the pneumatic cylinder effects the movement.

Regarding claim 2, Everett discloses a tank (60) for storing a supply of pressurized fluid to be used by the pneumatic cylinder when the pneumatic cylinder is energized.

Regarding claim 4, Everett discloses a valve (as shown in figure 1) for fluidly communicating fluid into and out of the pneumatic cylinder.

Regarding claim 5, Everett discloses a solenoid valve for opening the tank allowing the tank to receive compressed fluids.

Regarding claim 6, Everett discloses a controller (as shown in figure 1) for operating the valve and the solenoid valve.

Regarding claim 7, Everett discloses a valved port selectively providing access to pressurized air inside the tank.

Regarding claim 8, Everett discloses a compressor fluidly connected to the tank.

***Allowable Subject Matter***

8. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bickel discloses an entering and exiting step system, Hawkins discloses a motor vehicle side step, Bundy discloses a universal stainless steel truck step.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hau Phan*  
*10/19/04*

Hau V Phan  
Examiner  
Art Unit 3618

**HAU PHAN**  
**PATENT EXAMINER**